

REMARKS

Favorable reconsideration is respectfully requested in view of the remarks of record and the following remarks.

Claims 9, 12 and 17 have been amended as suggested by the Examiner without prejudice or disclaimer thereto. Claim 19 is newly added. Support for this claim can be found page 2, lines 27 to page 3, line 4 and on pages 16 and 17 of the specification as filed. As noted previously by Applicants as well as by previously provided references, *Vargula hilgendorfii* and *Cypridina hilgendorfii* are closely related species and the luciferases of such species have high DNA homology and conserved regions. Thus, the specification's indication that they are related species and the disclosed method of obtaining polynucleotide sequences for luciferase provide support for this claim.

No new matter has been added.

In light of the above amendments to the claims, it is noted that the previous written description rejection of claims 9-12 and 17-18 are overcome as these claims now recite a structure for the claimed *Vargula* luciferase and YFP.

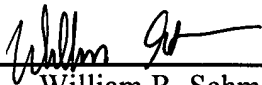
Furthermore, in regard to new claim 19, it is noted that this claim complies with the requirements of 35 U.S.C. § 112 as a person of skill in the art will understand how to obtain such polynucleotide. Furthermore, since it was known that *Vargula* luciferase and *Cypridina* luciferase are closely related, a person of skill in the art would understand that Applicants had possession of a polynucleotide encoding *Cypridina* luciferase and YFP.

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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